

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN
ON TUESDAY THE 15TH DAY OF MARCH, 2022
BEFORE HIS LORDSHIP, HON. JUSTICE (PROF.) C.A. OBIOZOR
JUDGE

CHARGE NO. FHC/B/68C/15

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA .. COMPLAINTANT

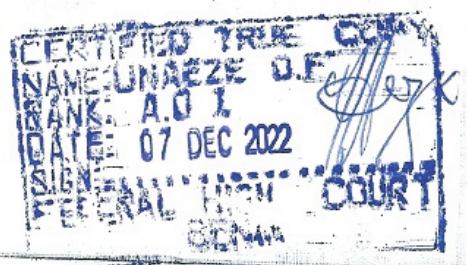
AND

ENABONKPE ROBERT .. DEFENDANT



J U D G M E N T

I have carefully assessed the plea of guilt by the Defendant the facts of this case – which the Defendant admits – and the totality of unchallenged evidence adduced by the prosecution and the Court is satisfied that the Prosecution has effectively proved the guilt of the Defendant beyond reasonable doubt to thereby discharge the burden cast upon it at law. I therefore find the Defendant guilty as charged. Consequently, the Defendant Enabonkpe Robert (a.k.a. Engineer Eric Cheng) is hereby convicted of fraudulently impersonating one Engineer



Eric Cheng by sending email addresses and representing himself as a white man from California in the United States of America, the representation which he knew to be false, contrary to Section 22(2)(b)(i) and (ii) of the Cybercrime (Prohibition, Prevention, e.t.c.) Act, 2015 and punishable under Section 22(2)(b)(iv) of the same Act.

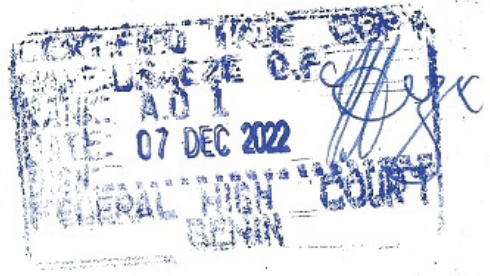
COURT: Does the convict have anything to say to this Court or evidence as to character in mitigation of punishment?

CONVICT: This is my first offence. I pray for leniency.

C.T. EKE: The convict is a first offender. I invite the Court to sentence the convict in accordance with the plea bargain entered by parties.

COURT: Ibrahim Mohammed how long has the convict been in detention and is there previous record?

IBRAHIM MOHAMMED: There is no previous criminal record known to us and the convict was detained for eight days from 9th to 17th of May, 2021.

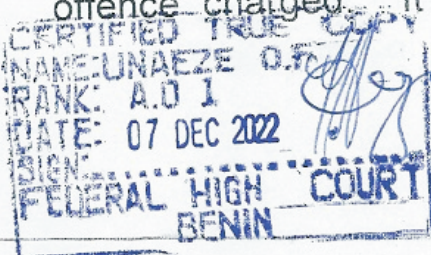


SENTENCE

I have taken account of the plea for leniency by the convict. I note that from the evidence before me, that the convict is a first offender. I have equally taken note of the punishment for the offence charged; the period of the convict's detention and the Sentencing Guidelines of this Court.

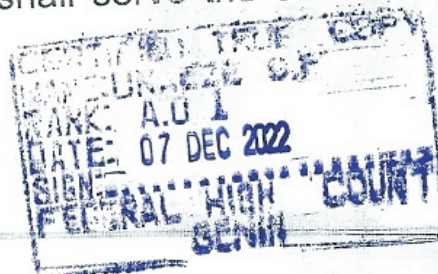
I see from the records that the convict entered a plea bargain with the prosecution. Although this had not been tendered, it forms part of my records having been filed and referred to by parties. For certain, the Court can take judicial notice of its records. Additionally, the Court can refer to a document which has found its way regularly in the Court's file and make use of same, even as it is not tendered as an exhibit. See **Agbaisi v. Ebikerefe**; see also **Eromosele v. F.R.N.** Plea bargain is essentially a contract. It does not necessarily bind the Court. So, this Court can reject same.

Should this Court accede to the terms of the Plea Bargain in this case? Firstly, I have noted the punishment section of the offence charged. It allows for an option of fine in lieu of



custodial sentence but sets out the range of the Court's intervention. I have taken a look at the tenor of the Plea Bargain. It falls within the permissible limits.

Secondly, Section 416 of the Administration of Criminal Justice Act, 2015, enjoins the Court not to impose a custodial sentence on first offenders except there be no other way of dealing with them. In this case, the convict is shown to be a first offender. For these reasons, I shall accept the terms of the Plea Bargain in passing the sentence in this case. Accordingly, and in accordance with the Plea Bargain, the convict, Enabonkpe Robert (a.k.a. Engineer Eric Cheng) is hereby sentenced to 5(Five) years imprisonment with effect from the date of this Judgment (as the plea bargain is silent on the commencement date for the custodial sentence) with an option of fine in the sum of N500,000.00 (Five Hundred Thousand Naira). In addition, the convict shall forfeit iPhone 7 Plus with IMEI Number 353819085458103, being the instrumentality of crime, to the Federal Government of Nigeria. In the event of failure to satisfy the option of fine, the convict shall serve the custodial



term at the Benin Correctional Centre, Sapele Road, Benin City. This conviction shall not foreclose any subsequent forfeiture proceedings against the convict over any other assets/properties traced to him as proceeds of crime.



HON. JUSTICE (PROF.) CHUKA A. OBIOZOR
JUDGE
15/03/2022.

Parties:

Defendant, present.

Appearances:

Ibrahim Mohammed for the Prosecution.
C.J. Eke with the brief of P.O. Osanebi for the Defendant.

